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RUEHLM/AMEMBASSY COLOMBO 8042
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RUEHCI/AMCONSUL KOLKATA 0864

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DEPARTMENT PLEASE PASS TO SCA PDAS STEVE R. MANN

E.O. 12958: DECL: 08/06/2017

TAGS: [EINV](#) [ECON](#) [ETRD](#) [EPET](#) [PREL](#) [KTIA](#) [BG](#)

SUBJECT: CHEVRON'S INTERNATIONAL ARBITRATION

REF: JULY 30 O/I ITEM

Classified By: CDA a.i. GEETA PASI FOR REASONS 1.4(b) & (d)

¶1. (C) SUMMARY. Chevron Bangladesh filed for international arbitration of a dispute with Petrobangla pursuant to their contracts and treaties signed by Bangladesh. In response, Petrobangla filed a local case in Bangladesh seeking to stay that arbitration and recently received a court order granting a stay. Chevron briefed the CDA a.i. and emboffs on July 30, 2007, requesting no specific action beyond raising concerns about the impact of this issue on foreign investment, which has been covered by the local media. END SUMMARY.

¶2. (U) THE UNDERLYING DISPUTE. Chevron Bangladesh (a Bermuda-registered, wholly-owned subsidiary of Chevron, a U.S. corporation) and Petrobangla (a GOB entity responsible for oil and gas) entered into two Production Sharing Contracts (PSCs) on January 11, 1995 and three Gas Purchase and Sales Agreements (GPSAs) as follows: Jalalabad GPSA in November 1996, Moulvi Bazar GPSA in October 2003 and Bibiyana GPSA in November 2004. The original contracts provided for Chevron to use Petrobangla's pipelines when selling to other purchasers in return for a 4% tariff. In April 1999, however, Petrobangla began charging the 4% tariff (deducted from monthly payments to Chevron) on gas sold to Petrobangla transmitted through Petrobangla's pipelines. Chevron argues that the contracts transfer ownership of the gas to Petrobangla before the gas enters Petrobangla's pipelines, and therefore Chevron is not responsible for a tariff after that transfer.

¶3. (U) DISPUTE RESOLUTION. Chevron instituted case number ARB/06/10 with the International Centre for Settlement of Investment Disputes (ICSID) in January 2006 to resolve the dispute through international arbitration. Bangladesh, the U.S., and Bermuda are all signatories to the convention which created ICSID. Petrobangla filed a case in April 2007, "Title Suit No 140 of 2007," with a Bangladesh court which included a prayer to stay the arbitration. The ICSID tribunal communicated directly with the Bangladesh court informing it that ICSID had exclusive jurisdiction over the dispute; the Bangladesh court however ordered that the arbitration be stayed on July 22, 2007. This stay, as an interlocutory order, is subject to appellate review when a certified order is produced; currently there is only a verbal order, pronounced by the judge from the bench.

¶4. (C) BRIEFING BY CHEVRON. CDA a.i. and emboffs met with Chevron Bangladesh's President Steve Wilson, Director of Government Relations Ismail Chowdhury, and Legal Director Chye Koh on July 30, 2007. Chevron's representatives

emphasized that Chevron is not seeking assistance with the merits of the case, only with ensuring proper process is followed in getting the case before ICSID. Wilson said he met recently with Bangladesh's Energy Secretary and Petrobangla's president, both of whom want to get out of the current situation which they attribute to an overzealous Petrobangla attorney. Neither the Energy Secretary nor Petrobangla's president, however, feel they can take the risk in the current anti-corruption environment of dismissing the local lawsuit that is holding up international arbitration, for fear it would appear they have been paid off by Chevron. Chevron will appeal the stay when a certified order is received.

¶5. (C) NEXT STEPS. CDA a.i. cited the Chevron - Petrobangla dispute in a well-publicized speech to the American Chamber of Commerce July 31 as an example of negative signals to foreign investors. Embassy will continue to express concern about the overall negative treatment of treaty obligations and foreign investors in public and private venues.

PASI